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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,461	06/23/2003	Robert Phillip Griffiths	9764-15US (12448)	7611

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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05/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/601,461

Applicant(s)

GRIFFITHS ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s),

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This application contains claims 14 and 16 drawn to an invention nonelected with traverse in the reply filed on 11/24/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The status of the claims is as follows:

Claims withdrawn from consideration: 14, 16

Claim(s) cancelled: 19-23, and

Claims elected and herein addressed below: 1-13, 15, 17, and 18.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 5-13, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by EP patent No. 119,369 to Balsamo. As shown in Figures 13 and 14, EP patent No. 119,369 to Balsamo discloses a shutter assembly having a plurality of modular elongate member units (11) comprising a support (11a1) for a compact boss (12) adapted to be engaged to a shutter blade (2) whereby rotation of the compact boss (12) causes rotation of the shutter blade (2) wherein each elongate member unit (11) is stackable and engageable (13a and 13b) to identical elongate member units to form an

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assembly elongate member. A translating member (13) engaging the compact boss (12). EP patent No. 119,369 to Balsamo further discloses the elongate member unit having a pair (11a) of separately formed and joinable half components, which form a housing. EP patent No. 119,369 to Balsamo still further discloses snap engagement means (13a and 13b) in the form of male/female and/or "snap locators". EP patent No. 119,369 to Balsamo still further discloses a short axial member (12a), complementary surfaces of ridges and valleys which corresponds to complementary surfaces of the translating member (13), and a recess (12b) within the compact boss (12) engaged with a protrusion (4) extending from the shutter blade (2).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is further rejected under 35 U.S.C. 103(a) as being unpatentable over EP patent No. 119,369 to Balsamo in view of Givoni ('255). All of the elements of the instant invention are discussed in detail above except providing a motorized turning means having sensors. Givoni ('255) discloses and a motorized turning means (8, a motor which has environmental sensors, column 7, lines 38-43) having sensors. It would have been obvious to one of ordinary skill in the art at the time of the invention to

provide Balsamo with a motorized turning means having sensors as taught by Givoni ('255) since a motorized turning means having sensors allows the shutter assembly to be automatically opened and closed upon set and desired conditions.

The applicant's arguments have been considered but are not deemed persuasive. The applicant argues that EP patent No. 119,369 to Balsamo fails to disclose "at least one continuous, unitary translating member". EP patent No. 119,369 to Balsamo clearly discloses this claimed feature. When the units are connected together (i.e., 13a and 13b), the one continuous, unitary translating member moves the bosses to rotate the shutter blade as discussed in detail above. The applicant further argues that EP patent No. 119,369 to Balsamo fails to disclose "each modular member unit is stackable and engageable to identical modular elongate member units". Again, EP patent No. 119,369 to Balsamo clearly discloses this claimed feature as discussed in detail above.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.

  
**Jerry Redman**  
**Primary Examiner**